

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :
 :
Shenpos & D.C. Inc. :
t/a Market of Columbia Pl. : Show Cause
516 23rd Street NW : Hearing
 :
Retailer CT :
License No. 23557 ANC1A :
Case No. 14-CC-00005/00007 :
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OCTOBER 15, 2014

The Alcoholic Beverage Control
Board met in the Alcoholic Beverage Control
Hearing Room, Reeves Building, 2000 14th
Street N.W., Washington, D.C., Chairperson
Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson

DONALD BROOKS, Member

NICK ALBERTI, Member

HECTOR RODRIGUEZ, Member

MIKE SILVERSTEIN, Member

JAMES SHORT, Member

HERMAN JONES, Member

ALSO PRESENT:

Michael Stern

Andrew Kline

Jay Gu

P-R-O-C-E-E-D-I-N-G-S

10:38 a.m.

CHAIR MILLER: Okay, we're back
on the record.

We have two cases dealing with
Shenpos and D.C. Inc., trading as Market of
Columbia Plaza, located at 516 23rd Street,
Northwest, License No. 23557 in ANC 1A.

The first case is Case No. 14-CC-
00005 and the second case will be Case No.
14-CC-00007.

So, if the parties could
introduce themselves for the record.

MR. STERN: Michael Stern,
representing the District of Columbia.

MR. KLINE: Good morning. Andrew
Kline on behalf of the licensee. State your
name for the record.

MR. GU: Jay Gu.

MR. KLINE: Jay Gu, last name
spelled G-U.

CHAIR MILLER: Okay, and you are

1 the owner or what?

2 MR. KLINE: Yes.

3 CHAIR MILLER: Owner, okay.

4 MR. KLINE: Principle of the
5 entity that holds the license.

6 CHAIR MILLER: Okay, all right.

7 So, looking at the first case, Show Cause
8 Hearing. Are there any preliminary matters?

9 MR. STERN: There are. There are
10 actually preliminary matters that cover both
11 cases.

12 CHAIR MILLER: Okay.

13 MR. STERN: The parties have
14 entered into an agreement, which we hope the
15 Board will adopt as an offer in compromise.

16 That agreement was -- is somewhat
17 complicated. We've printed it out. I think
18 the Board Members have copies of that, but I
19 will read it into the record, what the
20 agreement is.

21 CHAIR MILLER: Did you get signed
22 copies?

1 MR. STERN: Not signed copies,
2 just copies that the Board could follow
3 along with.

4 CHAIR MILLER: Okay, then that's
5 okay.

6 MR. STERN: In Case 14-CC-000007,
7 the OIC consists of a fine of \$9,000, a 20
8 day suspension with four days served and 16
9 days stayed for a period of one year.

10 The OIC includes a \$5,000 fine
11 for Charge No. 1, with four days served and
12 six days stayed for one year.

13 The OIC includes a \$2,000 fine
14 for Charge No. 2 with five days stayed for
15 one year.

16 The OIC includes the dismissal of
17 Charge No. 3 and the OIC includes a \$2,000
18 fine for charge four, with five days stayed
19 for one year.

20 Further, in Case No. 14-CC-
21 000005, there is an OIC. The OIC consists
22 of an \$11,000 fine, a 25 day suspension,

1 with four days served and 21 days stayed for
2 one year.

3 The OIC shall include a \$5,000
4 fine for Charge No. 1 to four days served
5 and six days stayed for one day -- year.

6 The OIC shall include a \$2,000
7 fine for Charge No. 2, with five days stayed
8 for one year.

9 The OIC shall include dismissal
10 of Charge No. 3. The OIC shall include a
11 \$2,000 fine for Charge No. 4 with five days
12 stayed for one year.

13 The OIC shall include a dismissal
14 of Charge No. 5.

15 The OIC shall include a \$2,000
16 for Charge No. 6 with five days stayed for
17 one year, and the OIC shall include the
18 dismissal of Charge No. 7.

19 Further, an application to
20 transfer the license will be filed by
21 Friday, October 24th. The total fine of
22 \$20,000 shall be paid within 30 days and the

1 transfer of the ownership, if approved by
2 the Board, shall not be issued to the new
3 owner until the \$20,000 fine is paid.

4 None of the current officers or
5 owners of Shenpos and D.C. Incorporated
6 shall be allowed to apply -- or shall apply
7 for a new liquor license for a period of
8 five years.

9 The eight day suspension that is
10 to be served, to be served for the period
11 Monday, October 20th through Monday, October
12 27th, inclusive, both days being stayed.

13 Those are the terms. If I may,
14 the Government, in entering this, just for
15 the Board's edification, believes that this
16 is a good compromise that serves the
17 Government's interests in the following
18 ways.

19 One, the Government will be
20 remunerated for violations which occurred in
21 the amount of \$20,000. Further, the
22 establishment will be punished with a

1 suspension of eight days.

2 Within 30 days, this
3 establishment and its owners will be out of
4 the liquor selling business, and will remain
5 out of the liquor selling business for five
6 years.

7 We believe that absent an
8 agreement, the Government's return on this
9 case would be null to potentially zero.

10 So, entering into the agreement -
11 - and they would remain in business until an
12 order was issued by the Board, which could
13 well be longer than the period provided for
14 in the offer in compromise.

15 For all those reasons, we believe
16 that this is an offer in compromise which
17 the Board should accept.

18 CHAIR MILLER: Mr. Kline, does
19 your client accept this offer in compromise?

20 MR. KLINE: Yes.

21 CHAIR MILLER: And does he know
22 that he waives his right to a hearing?

1 MR. KLINE: Yes, and that he
2 waives his right to a hearing and right to
3 appeal, if it's accepted by the Board, and
4 if I could just add a few comments.

5 CHAIR MILLER: Yes.

6 MR. KLINE: The allegations, with
7 respect to the two cases, are obviously
8 extremely serious.

9 Mr. Gu is primarily an absentee
10 owner. When these violations came to light,
11 or when these allegations came to light, it
12 seemed that the best course of action was
13 for him to divest himself of this business
14 and get out of this business.

15 He immediately set out to find a
16 buyer, entered into a contract dated July
17 11th.

18 It took some time to get the
19 landlord onboard, but we finally were able
20 to do that within the last week.

21 The alternative, and Mr. Stern
22 alluded to it, is if these cases went to

1 hearing and the allegations were proven, and
2 the Board deemed it appropriate to revoke
3 the license, is that this business would be
4 bankrupt.

5 The sale -- I want the Board to
6 know this because I think it's important,
7 will not result in any windfall or even any
8 profit to Mr. Gu.

9 The landlord is owed
10 approximately \$80,000, based on the
11 conversation I had with the landlord
12 yesterday. There is bank debt of \$100,000
13 and there is other debt of \$40,000. The
14 sale does not cover that.

15 On top of that, we have the OIC
16 fine of \$20,000.

17 In connection with the sale,
18 we're holding a deposit. It would be our
19 intention that the money would be dispersed
20 directly from the settlement proceeds, to
21 pay the fine, if the OIC were accepted by
22 the Board.

1 So, you know, I want the Board to
2 know that. We expect that this would move
3 forward and the money would be collected and
4 obviously, given the way that the OIC is
5 structured, it's in the buyer's interest to
6 make sure that the \$20,000 is paid, because
7 the transfer won't be finalized unless and
8 until that money is paid.

9 I just wanted to give that
10 explanation, so the Board is clear that the
11 Licensee understands the seriousness of the
12 situation and the allegations, and that this
13 represents the best result of a somewhat bad
14 situation.

15 CHAIR MILLER: Thank you. Are
16 there Board questions?

17 (No audible response)

18 CHAIR MILLER: Okay, not hearing
19 any then, I would move that we approve the
20 offer in compromise as read into the record
21 by Mr. Stern, for all the reasons that both
22 attorneys have articulated, that this is --

1 appears to be in the best interest of the
2 District of Columbia and all the parties.

3 So, do I have a second?

4 MEMBER ALBERTI: Second.

5 CHAIR MILLER: Okay, Mr. Alberti
6 seconded the motion. All those in favor say
7 aye.

8 (Chorus of ayes)

9 CHAIR MILLER: All those opposed?

10 (No audible response)

11 CHAIR MILLER: All those
12 abstaining?

13 (No audible response)

14 CHAIR MILLER: The motion passes
15 6-0-0.

16 MR. KLINE: Thank you.

17 CHAIR MILLER: Okay, thank you.

18 MR. KLINE: In closing I want to
19 thank Mr. Stern for working with us on this.
20 This was not an easy one, as the Board can
21 imagine, and we appreciate the time that his
22 office put into it, in working with us to

1 come up with a result that is as palliable
2 as it can be, under the circumstances.

3 Thank you.

4 CHAIR MILLER: Thank you.

5 MR. GU: Thank you, sir.

6 CHAIR MILLER: Mr. Stern.

7 MR. KLINE: Okay, great. Thank
8 you.

9 CHAIR MILLER: Okay, thank you.

10 (Whereupon, the above-entitled
11 matter went off the record at 10:48 a.m.)

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<p>A</p> <p>\$100,000 10:12</p> <p>\$11,000 5:22</p> <p>\$2,000 5:13,17 6:6 6:11,15</p> <p>\$20,000 6:22 7:3,21 10:16 11:6</p> <p>\$40,000 10:13</p> <p>\$5,000 5:10 6:3</p> <p>\$80,000 10:10</p> <p>\$9,000 5:7</p> <p>a.m 3:2 13:11</p> <p>able 9:19</p> <p>above-entitled 13:10</p> <p>absent 8:7</p> <p>absentee 9:9</p> <p>abstaining 12:12</p> <p>accept 8:17,19</p> <p>accepted 9:3 10:21</p> <p>action 9:12</p> <p>add 9:4</p> <p>adopt 4:15</p> <p>agreement 4:14,16 4:20 8:8,10</p> <p>Alberti 2:11 12:4,5</p> <p>Alcoholic 1:3,17,18</p> <p>allegations 9:6,11 10:1 11:12</p> <p>allowed 7:6</p> <p>alluded 9:22</p> <p>alternative 9:21</p> <p>amount 7:21</p> <p>ANC 3:8</p> <p>ANC1A 1:10</p> <p>Andrew 2:21 3:16</p> <p>appeal 9:3</p> <p>appears 12:1</p> <p>application 6:19</p> <p>apply 7:6,6</p> <p>appreciate 12:21</p> <p>appropriate 10:2</p> <p>approve 11:19</p> <p>approved 7:1</p> <p>approximately 10:10</p> <p>articulated 11:22</p>	<p>attorneys 11:22</p> <p>audible 11:17 12:10,13</p> <p>aye 12:7</p> <p>ayes 12:8</p> <p>B</p> <p>back 3:3</p> <p>bad 11:13</p> <p>bank 10:12</p> <p>bankrupt 10:4</p> <p>based 10:10</p> <p>behalf 3:17</p> <p>believe 8:7,15</p> <p>believes 7:15</p> <p>best 9:12 11:13 12:1</p> <p>Beverage 1:3,17,18</p> <p>Board 1:3,18 4:15 4:18 5:2 7:2 8:12 8:17 9:3 10:2,5,22 11:1,10,16 12:20</p> <p>Board's 7:15</p> <p>BROOKS 2:10</p> <p>Building 1:19</p> <p>business 8:4,5,11 9:13,14 10:3</p> <p>buyer 9:16</p> <p>buyer's 11:5</p> <p>C</p> <p>case 1:11 3:9,9,10 3:10 4:7 5:6,20 8:9</p> <p>cases 3:5 4:11 9:7 9:22</p> <p>Cause 1:8 4:7</p> <p>CHAIR 3:3,22 4:3 4:6,12,21 5:4 8:18 8:21 9:5 11:15,18 12:5,9,11,14,17 13:4,6,9</p> <p>Chairperson 1:20 2:9</p> <p>charge 5:11,14,17 5:18 6:4,7,10,11 6:14,16,18</p>	<p>Chorus 12:8</p> <p>circumstances 13:2</p> <p>clear 11:10</p> <p>client 8:19</p> <p>closing 12:18</p> <p>collected 11:3</p> <p>Columbia 1:1,8 3:7 3:15 12:2</p> <p>come 13:1</p> <p>comments 9:4</p> <p>complicated 4:17</p> <p>compromise 4:15 7:16 8:14,16,19 11:20</p> <p>connection 10:17</p> <p>consists 5:7,21</p> <p>contract 9:16</p> <p>Control 1:3,17,18</p> <p>conversation 10:11</p> <p>copies 4:18,22 5:1,2</p> <p>course 9:12</p> <p>cover 4:10 10:14</p> <p>CT 1:10</p> <p>current 7:4</p> <p>D</p> <p>D.C 1:8,20 3:6 7:5</p> <p>dated 9:16</p> <p>day 5:8,22 6:5 7:9</p> <p>days 5:8,9,11,12,14 5:18 6:1,1,4,5,7 6:11,16,22 7:12 8:1,2</p> <p>dealing 3:5</p> <p>debt 10:12,13</p> <p>deemed 10:2</p> <p>deposit 10:18</p> <p>directly 10:20</p> <p>dismissal 5:16 6:9 6:13,18</p> <p>dispersed 10:19</p> <p>District 1:1 3:15 12:2</p> <p>divest 9:13</p> <p>DONALD 2:10</p> <p>E</p>	<p>easy 12:20</p> <p>edification 7:15</p> <p>eight 7:9 8:1</p> <p>entered 4:14 9:16</p> <p>entering 7:14 8:10</p> <p>entity 4:5</p> <p>establishment 7:22 8:3</p> <p>expect 11:2</p> <p>explanation 11:10</p> <p>extremely 9:8</p> <p>F</p> <p>favor 12:6</p> <p>filed 6:20</p> <p>finalized 11:7</p> <p>finally 9:19</p> <p>find 9:15</p> <p>fine 5:7,10,13,18,22 6:4,7,11,21 7:3 10:16,21</p> <p>first 3:9 4:7</p> <p>five 5:14,18 6:7,11 6:16 7:8 8:5</p> <p>follow 5:2</p> <p>following 7:17</p> <p>forward 11:3</p> <p>four 5:8,11,18 6:1,4</p> <p>Friday 6:21</p> <p>Further 5:20 6:19 7:21</p> <p>G</p> <p>G-U 3:21</p> <p>give 11:9</p> <p>given 11:4</p> <p>good 3:16 7:16</p> <p>Government 7:14 7:19</p> <p>Government's 7:17 8:8</p> <p>great 13:7</p> <p>Gu 2:22 3:19,19,20 9:9 10:8 13:5</p> <p>H</p> <p>hearing 1:9,19 4:8</p>	<p>8:22 9:2 10:1 11:18</p> <p>HECTOR 2:12</p> <p>HERMAN 2:15</p> <p>holding 10:18</p> <p>holds 4:5</p> <p>hope 4:14</p> <p>I</p> <p>imagine 12:21</p> <p>immediately 9:15</p> <p>important 10:6</p> <p>include 6:3,6,9,10 6:13,15,17</p> <p>includes 5:10,13,16 5:17</p> <p>inclusive 7:12</p> <p>Incorporated 7:5</p> <p>intention 10:19</p> <p>interest 11:5 12:1</p> <p>interests 7:17</p> <p>introduce 3:13</p> <p>issued 7:2 8:12</p> <p>J</p> <p>JAMES 2:14</p> <p>Jay 2:22 3:19,20</p> <p>JONES 2:15</p> <p>July 9:16</p> <p>K</p> <p>Kline 2:21 3:16,17 3:20 4:2,4 8:18,20 9:1,6 12:16,18 13:7</p> <p>know 8:21 10:6 11:1,2</p> <p>L</p> <p>landlord 9:19 10:9 10:11</p> <p>license 1:10 3:8 4:5 6:20 7:7 10:3</p> <p>licensee 3:17 11:11</p> <p>light 9:10,11</p> <p>liquor 7:7 8:4,5</p> <p>located 3:7</p> <p>longer 8:13</p>
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